

United States District Court**Eastern District of Texas**

UNITED STATES OF AMERICA

v.

JOSEPH FRANKLIN SMITH

JUDGMENT IN A CRIMINAL CASE

(For Offenses Committed On or After November 1, 1987)

Case Number: **1:01CR00031-003****Toni M. Triplett**

Defendant's Attorney

THE DEFENDANT:

- ☒ pleaded guilty to count(s) **5 of the Indictment**
- ☐ pleaded nolo contendere to count(s) _____ which was accepted by the court.
- ☒ was found guilty on count(s) **1, 2 & 3 of the Indictment** after a plea of not guilty.

Accordingly, the Court has adjudicated that the defendant is guilty of the following offense(s):

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 U.S.C. § 1951 and 371	Conspiracy to Commit Robbery	01/02/2001	1
18 U.S.C. § 1951 and 2	Robbery	01/02/2001	2
18 U.S.C. § 924 (c)(1)	Use of a Firearm to Commit Robbery	01/02/2001	3

See Additional Counts of Conviction - Page 2

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- ☐ The defendant has been found not guilty on count(s) _____
- ☒ Count(s) **4 of the Indictment** is dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant shall notify the court and United States Attorney of any material change in the defendant's economic circumstances.

Defendant's Soc. Sec. No.: **457-57-2421**Defendant's Date of Birth: **06/02/1981**Defendant's USM No.: **97499-079**

Defendant's Residence Address:

121 Owens**Houston TX 77029**

Defendant's Mailing Address:

121 Owens**Houston TX 77029****04/19/2002**

Date of Imposition of Judgment

Richard A. Schell

Signature of Judicial Officer

RICHARD A. SCHELL**U. S. DISTRICT JUDGE**

Name & Title of Judicial Officer

4-19-02

Date

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ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 U.S.C. § 924 (c)(1)	Use of a Firearm to Commit Robbery	01/02/2001	5

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IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of 461 month(s).

This term consist of 41 months on Counts 1 and 2 of the Indictment; 120 months on Count 3 of the Indictment, to run consecutively to Counts 1, 2 and 5; and 300 months on Count 5 of the Indictment, to run consecutively to Counts 1, 2 and 3.

☒ The court makes the following recommendations to the Bureau of Prisons:
The court recommends that the defendant participate in the 500 hour drug treatment program while incarcerated.

The court recommends that the defendant be incarcerated in a prison facility near Houston, TX and that he not be incarcerated in a prison facility with co-defendants, Derrick Wright, USM# 09037-078 or Korey Jackson, USM# 09031-078.

- ☒ The defendant is remanded to the custody of the United States Marshal.
☐ The defendant shall surrender to the United States Marshal for this district:
☐ at _____ a.m./p.m. on _____.
☐ as notified by the United States Marshal.

- ☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:
☐ before 2 p.m. on _____.
☐ as notified by the United States Marshal.
☐ as notified by the Probation or Pretrial Services Office.

RETURN

I have executed this judgment as follows:

Defendant delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

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SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of 5 year(s).

This term consist of three years on Counts 1 and 2; and five years on Counts 3 and 5 of the Indictment. All such terms shall run concurrently to each other.

The defendant shall report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state, or local crime.

The defendant shall not illegally possess a controlled substance.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer.

☐ The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse.

☒ The defendant shall not possess a firearm, destructive device, or any other dangerous weapon, as defined in 18 U.S.C. § 3563(b)(8).

If this judgment imposes a fine or a restitution obligation, it shall be a condition of supervised release that the defendant pay any such fine or restitution that remains unpaid at the commencement of the term of supervised release in accordance with the Schedule of Payments set forth in the Criminal Monetary Penalties sheet of this judgment.

The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall also comply with the additional conditions on the attached page (if indicated below).

See Special Conditions of Supervision - Page 5

STANDARD CONDITIONS OF SUPERVISION

- 1) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view of the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

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SPECIAL CONDITIONS OF SUPERVISION

- 1) The defendant shall provide the probation officer with access to any requested financial information for purposes of monitoring his restitution payments.
- 2) The defendant shall not incur new credit charges or open additional lines of credit without the approval of the probation officer unless payment of any financial obligation ordered by the Court has been paid in full.
- 3) The defendant shall participate in a program of testing and treatment for alcohol and drug abuse, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer.
- 4) The defendant shall participate in any combination of psychiatric, psychological, or mental health treatment, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer.
- 5) The defendant shall cooperate in the collection of DNA as directed by the probation officer.

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CRIMINAL MONETARY PENALTIES

The defendant shall pay the following total criminal monetary penalties in accordance with the schedule of payments set forth on Sheet 5, Part B.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
Totals:	\$ 400.00	\$	\$ 1,000.00

☐ If applicable, restitution amount ordered pursuant to plea agreement \$

FINE

The above fine includes costs of incarceration and/or supervision in the amount of \$.

The defendant shall pay interest on any fine of more than \$2,500, unless the fine is paid in full before the fifteenth day after the date of judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 5, Part B may be subject to penalties for default and delinquency pursuant to 18 U.S.C. § 3612(g).

- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ The interest requirement is waived.
 - ☐ The interest requirement is modified as follows:

RESTITUTION

☐ The determination of restitution is deferred until An Amended Judgment in a Criminal Case will be entered after such a determination.

☒ The defendant shall make restitution (including community restitution) to the following payees in the amounts listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid in full prior to the United States receiving payment.

<u>Name of Payee</u>	<u>* Total Amount of Loss</u>	<u>Amount of Restitution Ordered</u>	<u>Priority Order or Percentage of Payment</u>
Jenny's Fried Chicken	\$1,000.00	\$1,000.00	

Totals: \$ 1,000.00 \$ 1,000.00

* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

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SCHEDULE OF PAYMENTS

Payments shall be applied in the following order: (1) assessment; (2) restitution; (3) fine principal; (4) cost of prosecution; (5) interest; (6) penalties.

Payment of the total fine and other criminal monetary penalties shall be due as follows:

- A ☐ in full immediately; or
- B ☒ \$ 400.00 immediately, balance due (in accordance with C, D, or E); or
- C ☐ not later than _____; or
- D ☒ Payment to begin immediately. Any amount that remains unpaid when the defendant is placed on supervision is to be paid on a monthly basis at the rate of at least 10% of the defendant's monthly gross income, to be changed during supervision if needed, based on the defendant's changed circumstances, pursuant to 18 USC 3664(k).
- E ☐ in _____ (e.g. equal, weekly, monthly, quarterly) installments of \$ _____ over a period of _____ year(s) to commence _____ day(s) after the date of this judgment.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

Special instructions regarding the payment of criminal monetary penalties:

All criminal monetary penalty payments are to be made to the U.S. District Court, Fine & Restitution Section, P.O. Box 570, Tyler, TX 75710, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program.

The court determined that the defendant does not have the ability to pay interest on restitution, therefore, the interest requirement is waived.

<input checked="" type="checkbox"/> Joint and Several Case Number (including Defendant Number)	Defendant Name	Joint and Several Amount
1:01CR31-1	Derrick Ardoin Wright	\$1,000.00
1:01CR31-2	Korey Jawain Jackson	\$1,000.00

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall forfeit the defendant's interest in the following property to the United States:

Unless the court has expressly ordered otherwise in the special instructions above, if this judgment imposes a period of imprisonment payment of criminal monetary penalties shall be due during the period of imprisonment. All criminal monetary penalty payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program are to be made as directed by the court, the probation officer, or the United States attorney.

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